

By-Law 17

B.L. 17: RULES AND REGULATIONS GOVERNING THE IQSK COUNCIL ELECTIONS

ARTICLE 1: DEFINITIONS AND INTERPRETATION

1. Short Title

This By-Law shall be known as The Rules and Regulations Governing the IQSK Elections.

2. Interpretation

“**AGM**” shall mean the Annual General Meeting of the Institute;

“**Campaign period**” means the period specified as such in the notice issued by the Commission in relation to an election;

“**Candidate**” means a nominee who, having his position contested after nominations, has been published for balloting;

“**Commission**” means the IQSK Independent Elections Commission;

“**Contested Position**” means a position at the Institute that has more than one successfully nominated candidate.

“**Council**” means the Council of the Institute of Quantity Surveyors of Kenya;

“**Elections**” means the IQSK Council elections and includes fresh elections;

“**Elections day**” means the date that has been specified as such in the notice issued by the Commission in relation to an election;

“**Elections year**” means the second year after election of the IQSK Council;

“**Election material**” means ballot boxes, ballot papers, counterfoils, envelopes, packet statements and other documents used in connection with voting in an election and includes information technology equipment for voting, the voting compartments, instruments, seals and other materials and things required for the purpose of conducting an election; “**Election offence**” means a violation or infringement of any of these regulations; “**Elections officer**” means a person appointed by the Commission for the purposes of conducting an election under this constitution and these regulations;

“**Election period**” means the period between the publication of a notice by the Commission for an IQSK election and the declaration of the election results;

“Election results” means the declared outcome of the casting of votes by voters at an election;
“Electronic electoral system” means a system that enables electronic voter identification, electronic casting of votes, electronic tallying of results and electronic administration of the elections process;

“Illegal practice” has the same meaning as an election offence under these regulations;

“Institute” means the Institute of Quantity Surveyors of Kenya;

“Member in Good Standing” means any person who has fulfilled the requirements for membership in their respective member category and who had not voluntarily withdrawn or been expelled or suspended by the Institute;

“Nomination” means the submission to the commission of the name of an aspiring candidate in accordance with the IQSK Constitution and these regulations;

“Nominee” means a person who has been successfully nominated as a candidate in the IQSK elections;

“Observer” means a person or an organization accredited by the Commission to observe an IQSK election;

“Petition” means an application to the Electoral Tribunal under this constitution or under these regulations;

“Returning officer” means the Chairperson of the Commission or a Commissioner who has been seconded by other commissioners for the purpose of tallying the results of an IQSK election;

“SGM” shall mean a Special General Meeting of the Institute.

“Tribunal” means the body mandated under this By-Law to handle election disputes;

“Vote” means a ballot that has been successfully cast on the elections day;

“Voter” means a full member of the Institute who is in good standing and has been included in the final voters’ register published by the Independent Electoral Commission; **“Voters’ register”** means a list published by the Commission containing current register of all full members of the Institute who are in good standing with the Institute, and includes a register compiled electronically;

“Voting period” means the period specified as such in the notice issued by the Commission in relation to an election.

“Full Member” means a member who is a Licentiate, Professional or Fellow of the Institute.

ARTICLE 2: ELECTORAL SYSTEM AND PROCESS

3. General Principles for the Electoral System

The IQSK electoral system shall comply with the following principles -

- (a) Freedom of full members of the Institute to exercise their voting rights;
- (b) Independence of the Independent Electoral Commission;
- (c) Objectivity and impartiality in decisions making and in ensuring that decisions are not influenced by nepotism, favoritism and other improper motives or corrupt practices;
- (d) Universal suffrage;
- (e) Free, fair and credible elections which are:
 - i. By secret ballot;
 - ii. Free from violence, intimidation, improper influence and corruption;
 - iii. Transparent; and,
 - iv. Administered in an impartial, neutral, efficient, accurate and accountable manner.

4. Holding of elections

- (a) The bi-annual IQSK Council Elections shall be held on Election Day.
- (b) The Elections Day shall –
 - i. be a day before the Annual General Meeting of the Institute in the Elections Year;
 - ii. not be a Weekend; and,
 - iii. not be a designated Public Holiday.
- (c) A notice for elections shall be issued by the Commission at least 28 days before the elections day.
- (d) After issuance of the notice, all incumbent council members shall continue serving on an interim basis.
- (e) Fresh elections shall be held in line with Section 12 of this By-Law.

5. Postponing Elections

- (a) The bi-annual IQSK Council Elections may be postponed by –
 - i. A resolution of more than two thirds of the full members at a Special General Meeting convened at least 90 days before the Annual General Meeting of the Elections' Year;

- ii. The Independent Electoral Commission in exercise of the Powers specified in Section 17 of this By-Law;
 - (b) If an election is to be postponed by the procedure specified in Section 5 (a) (i), then such postponement shall –
 - i. Affect all elective positions of the Institute;
 - ii. Be for a period of not less than three months but not more than six months;
 - iii. Extend the tenure of the incumbent IQSK Council by the period specified in Section 5 (b) (i);
 - (c) If an election is to be postponed by the procedure specified in Section 5 (a) (ii), then such postponement shall –
 - i. Specify the reasons for such postponement;
 - ii. Specify the affected elective position(s);
 - iii. Be at least thirty days but not more than sixty days;
 - iv. Maintain the vacancy of the seat for a similar period; and,
 - v. Be communicated to members of the Institute within 24 hours of the decision.
- 6. Qualifications of Voters**
- (a) All full members of the Institute shall have a right to exercise their votes as stipulated in Section 5.04 of the IQSK Constitution provided that –
 - i. They are in good standing with the Institute;
 - ii. They have not violated the electoral code of conduct specified in Article 4 of this By-Law.
 - (b) There shall be a register to be known as the Voters’ Register which shall comprise a list of full members who satisfy the requirements of Section 6 (a).
 - (c) The Independent Electoral Commission shall –
 - i. Prescribe the information to be contained in the Voters’ Register;
 - ii. Compile and maintain the Voters’ Register;
 - iii. Invite members of the Institute to inspect the Voters’ Register at least 14 days before an election;
 - iv. Assess complaints arising from the inspection process referred to in Section 6 (c) iii;

- v. Correct any anomalies identified from the inspection process referred to in Section 6 (c) iii;
 - vi. Publish a final Voters' Register at least seven days before an election;
- (d) The Voters' Register shall not be amended within seven days of an election;
- (e) A full member whose details appear in the Voters' Register and has been validly identified at the floor of the elections or on the electronic electoral system shall be eligible to vote in that election.

7. Nomination of Candidates

- (a) A member of the Institute may be nominated as a candidate for an election under these regulations only if the nominations procedure is carried out in accordance with B. L. 7.7 of the IQSK Constitution and By-Laws and only if the member –

- i. Satisfies the requirements of By-Laws 7.1, 7.2, 7.3, 7.4 ad 7.5 of the IQSK Constitution and By-Laws 2013;
- ii. Satisfies the requirements of Chapter Six of the Constitution of Kenya, 2010;
- iii. Is in good standing with the Institute; and,
- iv. Has not violated the electoral code of conduct specified in Article 4 of this By-Law.

- (b) The Independent Electoral Commission shall –

- i. Place a call for nomination of candidates at least 28 days before the elections day;
- ii. Receive nomination forms at least 21 days before the elections day;
- iii. Assess the nominated forms for compliance with the requirements of Section 7 (a) of this By-Law within 48 hours after receipt;
- iv. Mail out to all nominees, their proposers and their seconders the results of the nominations process;
- v. Provide a window period for receipt of appeals emerging from the nomination process;
- vi. Consider appeals arising from Section 7 (b) v. within 48 hours;
- vii. Publish a list of successfully nominated candidates to all members of the Institute at least 14 days before the elections day;
- viii. The list published in Section 7 (b) vii. will list the office and the successfully nominated candidates in alphabetical order;

8. Withdrawal of nominations

- (a) A successfully nominated candidate may withdraw their nomination by writing to the commission at least 7 days before the Elections Day;

9. Voting

- (a) Elections shall be held according to the terms and notification issued by the Electoral Commission, and in accordance with these regulations;
- (b) The Elections shall be by secret ballot, simple majority system and on the principle of one member one vote;
- (c) Voting shall be conducted between 8:00am and 5:00pm on the elections day, however the Commission may extend the period for not more than two hours for a good cause;
- (d) Persons with disabilities shall be accorded reasonable accommodation to enable them to vote;
- (e) The Independent Electoral Commission may decide whether to hold elections by physical balloting or by use of an electronic electoral system;
- (f) If the elections are to be held by casting of physical ballots, the ballot boxes shall be transparent, of a fixed number, counted, certified and recorded;
- (g) If the elections are to be held using the electronic electoral system, then they shall be done according to Section 10 of this By-Laws;

10. Use of an electronic electoral system

- (a) Subject to Section 9 of this By-Law and the IQSK Constitution and By-Laws, the Commission may adopt an electronic electoral system that enables electronic voter identification, electronic casting of votes, electronic tallying of results and electronic administration of the elections process;
- (b) The Commission may for purposes of Section 10 (a) develop a policy on the progressive use of technology in the electoral process.
- (c) The Commission shall ensure that the technology in use under Section 10 (a) is simple, accurate, verifiable, secure, accountable and transparent;
- (d) The Commission shall for purposes of this Section and in consultation with the IQSK Council, relevant agencies, institutions and stakeholders ensure –
 - i. The transparent acquisition and disposal of information and communication technology assets and systems;

- ii. Testing and certification of the system;
 - iii. Mechanisms for the conduct of a system audit;
 - iv. Data storage and information security;
 - v. Data retention and disposal;
 - vi. Access to electoral system software source codes;
 - vii. Capacity building of staff of the Commission and relevant stakeholders on the use of the technology in the electoral process;
 - viii. Telecommunication network for voter validation and results transmission;
 - ix. Development, publication and implementation of an emergency recovery and operations continuity plan; and,
 - x. The operations of a technical committee established under Section 10 (e)
- (e) For the purpose of giving effect to this section, the Commission may establish a technical committee of the Commission consisting of such members and officers of the Commission and such other relevant agencies, institutions or stakeholders as the Commission may consider necessary to oversee the adoption of technology in the electoral process and implement the use of such technology.

11. Determination and declaration of results

- (a) If only one aspiring candidate is nominated, that aspiring candidate shall be declared elected.
- (b) The voting results at the floor of an AGM or on the electronic electoral system shall be final;
- (c) Immediately after close of voting the Commission shall –
 - i. Verify the final results for each contested position;
 - ii. Declare in the prescribed form the final results for each contested position;
 - iii. Provide each candidate, or their proposer, with a copy of the declaration of the final results;
 - iv. Publish the voting results on the IQSK website;
- (d) An aspiring candidate shall be entitled to a maximum of two vote recounts, after which the winning candidate shall be declared.

- (e) Whenever there is a tie of the top two or more candidates in an election, such candidates shall participate in a fresh election until one or the prescribed number obtains a clear win.

12. Fresh Elections

- (a) Fresh elections may be held where –
 - i. There is no clear winner after determination and declaration of the voting results by the Independent Elections Commission;
 - ii. The Electoral Tribunal orders for fresh elections after the determination of an elections dispute;
- (b) Subject to Section 12 (a) of these By-Laws, fresh elections should be held after a period of at least 30 days but not more than sixty days.
- (c) The position for which fresh elections are to be held shall remain vacant until a clear winner emerges.

ARTICLE 3: THE IQSK INDEPENDENT ELECTIONS COMMISSION

13. Establishment of the IQSK Independent Elections Commission

- (a) There shall be an Independent Elections Commission consisting of five persons who shall serve on a part time basis.

14. Composition of the IQSK Independent Elections Commission

- (a) The Commission shall consist of a Chairperson, a Vice Chairperson and three other Commissioners appointed by the IQSK Council from among members of the Institute.
- (b) The IQSK Council shall stagger the appointment of Commissioners to ensure continuity;
- (c) The Chairperson and the Vice Chairperson shall be Fellow Members of the Institute and shall be of opposite gender.
- (d) The IQSK Council shall invite or place a call for volunteers to serve as Election Commissioners for the election year. This call shall be done latest forty five (45) days before the Election Day and shall run for at least seven (7) days.
- (e) The IQSK Council shall appoint the Chairperson, Vice Chairperson and the three other Commissioners within seven (7) days after the end of a call and inform successful applicants or invitees of such appointment at least 30 days before the elections date;

- (f) The tenure of the Commissioners shall be three months and shall thereafter be extended on a monthly basis with good cause;
- (g) Not more than two-thirds of the members of the Commission shall be of the same gender;
- (h) The individuals to be appointed to the Commission must meet the following minimum requirements –
 - i. They must satisfy the requirements of Chapter Six of the Constitution of Kenya 2010;
 - ii. They shall not be current members of the Council;
 - iii. They must be in good standing with the Institute; and,
 - iv. They must not be seeking election as office bearers of the Institute.
- (i) The Commission shall in the performance of its functions not be subject to the direction or control of any person or authority, but shall observe the principle of public participation and the requirement of consultation with stakeholders.
- (j) The Commission shall be assisted by staff drawn from the IQSK Secretariat.
- (k) The Chairperson of the Commission shall be the Returning Officer of the IQSK Elections.
- (l) The Vice Chairperson of the Commission shall be the Deputy Returning Officer of the IQSK Elections.
- (m) The Commission may appoint election observers from the Commission on Administrative Justice, the National Gender and Equality Commission and from any other organization provided such appointees are not members of the Institute and fulfil requirements of Chapter Six of the Kenyan Constitution and any other requirements specified by the Commission.
- (n) The IQSK Council shall have the powers to replace a Commissioner who may not be in a position to carry out his duty.

15. Guiding Principles of the IQSK Independent Elections Commission

The Commission shall be guided by the following principles:

- (a) Independence of the electoral process;
- (b) Objectivity and impartiality in decisions making and in ensuring that decisions are not influenced by nepotism, favoritism and other improper motives or corrupt practices;

- (c) Ensure free, fair and credible elections which are:
- i. By secret ballot;
 - ii. Free from violence, intimidation, improper influence or corruption;
 - iii. Transparent; and,
 - iv. Administered in an impartial, neutral, efficient, accurate and accountable manner.

16. Functions of the IQSK Independent Elections Commission

- (a) The Independent Elections Commission shall;
- i. Conduct and supervise elections of the Institute in accordance with the Rules and Regulations governing the IQSK Council Elections;
 - ii. Facilitate the observation, monitoring and evaluation of elections;
 - iii. Enforce the Electoral Code of Conduct specified in Article 4 of these By-Laws;
 - iv. Use appropriate technology and approaches in the performance of its functions;
 - v. Prepare an elections timetable in consultation with the IQSK Council;
 - vi. Supervise the preparation of the voters' register, ballot papers, ballot boxes and/or the electronic electoral system;
 - vii. Prepare the budget for elections in consultation with the IQSK Honorary Treasurer;
 - viii. Verify all nominations for candidates;
 - ix. Prepare and publish a list of all eligible candidates for all positions;
 - x. Conduct civic and voter education for members of the Institute;
 - xi. Form its committees to enable it to carry out its functions; and,
 - xii. Take any other functions it deems necessary to ensure that the elections are transparent, fair, peaceful and credible.

17. General Powers of the IQSK Independent Elections Commission

- (a) Nothing in these regulations shall preclude the Commission from taking any administrative measures to ensure effective conduct of the IQSK Council elections.
- (b) Subject to Section 5 of these By-Laws, the Commission may postpone the election of any office for such a period it may consider necessary where –
- i. There is reason to believe that a serious breach of peace is likely to occur if the election is held on that date;

- ii. It is impossible to conduct the elections as a result of a natural disaster or other emergencies;
- iii. There has been occurrence of an electoral malpractice of such a nature and gravity as to make it impossible for an election to proceed.

ARTICLE 4: THE IQSK ELECTORAL CODE OF CONDUCT

The intent of this electoral code of conduct is to encourage fair and open conduct of the elections by IQSK members on a level playing field and, most importantly, to maintain a dignified and courteous conduct appropriate to the image of the noble profession of Quantity Surveying.

18. Obligations of Candidates

- (a) Candidates while ensuring observance of all Rules and Regulations governing the IQSK Council Elections shall –
 - i. Respect the rights of all participants and supporters of opponents in the election;
 - ii. Promote free, fair and truthful campaigns and elections by all lawful means;
 - iii. Respect divergent opinions;
 - iv. Debate and contest in a positive and objective manner without causing bad blood or ridiculing opponents;
 - v. Cooperate with the Elections Commission and other relevant institutions in the investigation of issues and allegations arising during the election period;
 - vi. Acknowledge the Commission's authority in the conduct of elections by ensuring attendance and participation of representatives at meetings and other forums convened by the Commission in dispute resolution;
 - vii. Reassure voters with regard to the secrecy and integrity of the ballot and furthermore, to reaffirm the provisions of this Constitution to the effect that no one will know how any other person has voted;
 - viii. Immediately report any deviations from this code of which he/she becomes aware of to the Commission;
 - ix. Take reasonable steps to discipline, stop and control their supporters from infringing this code, engaging in activities of commission or omission which amounts to offences under the constitution or otherwise for not observing this code or contravening or failing to comply with any provisions of the electoral laws;

- x. Without prejudice to the right to present a petition to the Elections Tribunal, to accept the final outcome of the elections and the Commission's declaration and certification of the results thereof.

19. Nominations

- (a) A candidate or their supporters shall refrain from –
 - i. Intimidating and preventing candidates from presenting their nomination papers;
 - ii. Forging signatures during the nominations process; and.
 - iii. Destruction of candidates' nomination papers or any other document.

20. Campaigns

- (a) Candidates or their supporters shall –
 - i. Conduct campaigns in a peaceful and respectful manner;
 - ii. Condemn, avoid and prevent violence and intimidation or abusive language or words that will disparage the conduct of their opponents;
 - iii. Instruct their supporters to respect this code;
 - iv. Debate and contest other contestants in a positive and objective manner without ridiculing their opponents;
 - v. Refrain from mutilating or destroying documents or campaign materials posted or distributed by their opponents or the electoral commission; and,
 - vi. Not enter into an agreement with other candidates to campaign together.
- (b) Third party endorsements in campaign communications are not allowed.
- (c) Election messages –
 - i. Include short message services (SMS), emails, letters, postcards, and faxes asking for a member's election support;
 - ii. May include copies of a Candidate's curriculum vitae (CV), fact sheet, and biography; and,
 - iii. Must not be communicated through mass media like newspapers, television or radio.
 - iv. Shall not be signed off using an IQSK organizational title.
- (d) Handout pamphlets may be made available at any meetings attended by the candidate.

21. Voting

- (a) Candidates and their supporters shall refrain from:

- i. Disruption of the organization of elections;
- ii. Destroying voting materials and prevention of tallying of ballots;
- iii. Stuffing of ballot boxes in case of physical ballots;
- iv. Obstruction of voters from voting;
- v. Intimidating of election officials;
- vi. Manipulating voting documents and individual votes;
- vii. Any corrupt tendencies like bribing voters to vote for them;
- viii. Offering any inducement or reward to any person to vote, accept or refuse or withdraw his or her nomination;
- ix. Any form of campaigns during the election day;
- x. Carrying crude and dangerous weapons to the floor of the elections in case of physical voting; and,
- xi. Drunkenness, use of drugs or disorderly behaviors within, near and around the floor of the elections.

22. Election financing and expenditure

- (a) Candidates and their supporters must use their own resources for election activities. Fundraising is not permitted.
- (b) Candidates and their supporters may not organize campaign committees.
- (c) Candidates and their supporters must not use IQSK resources, services or staff to endorse, support or promote their campaigns.

ARTICLE 5: ELECTION OFFENCES AND PENALTIES

23. Election Offences and Penalties

- (a) Where in the opinion of the Commission and on sufficient presentation of evidence, candidates or their supporters have contravened or infringed on any of the provisions of this code, they will be deemed to have committed an election offence and may be liable to disqualification from the elections and the following penalties depending on the severity of the offenses:
 - i. Issued with a formal warning letter;
 - ii. A fine determined by the Commission not exceeding Kshs. 200,000;(looks High!)
 - iii. Be barred from holding any campaigns during the election period;

- iv. Disqualified from participating in current elections;
- v. Be barred from participating in any one or more future elections;
- vi. Be recommended for suspension from the Institute for a period of not less than two years;
- vii. Any other penalty provided for under the IQSK Code of Professional Conduct and Ethics.

ARTICLE 6: ELECTION DISPUTES RESOLUTION

24. Dispute Resolution by the Independent Elections Commission

- (a) The Commission shall be responsible for the settlement of electoral disputes, including disputes relating to or arising from nominations but excluding election petitions and disputes subsequent to the declaration of election results.
- (b) An electoral dispute under Section 24 (a) shall be determined within seven (7) days of the lodging of the dispute with the Commission.
- (c) Notwithstanding Section 24 (b), where a dispute relates to a prospective nomination or election, the dispute shall be determined before the date of the nomination or election, whichever is applicable.

25. Establishment of the IQSK Elections Tribunal

- (a) There shall be established a Tribunal, to be known as the Elections Tribunal which shall consider and determine disputes arising after the IQSK Council elections.

26. Composition of the IQSK Elections Tribunal

- (a) The Elections Tribunal shall consist of a Chairperson, a Vice Chairperson and three other members appointed by the IQSK Council;(incoming or outgoing council)
- (b) The IQSK Council shall stagger the appointment of members of the Elections Tribunal to ensure continuity;
- (c) The Chairperson and the Vice Chairperson shall be Members of the Institute and shall be drawn from the IQSK Panel of Arbitrators.
- (d) The IQSK Council shall invite volunteers to serve as members of the Elections Tribunal for the election year. This call shall be done latest forty- five (45) days before the Election Day and shall run for at least seven (7) days.

- (e) The IQSK Council shall appoint the Chairperson, Vice Chairperson and the three other members within seven (7) days after the end of the invitation and inform successful invitees of such appointment at least 30 days before the elections date;
- (f) The Elections Tribunal shall serve part-time for a term of three months which shall thereafter be extended on a monthly basis with good cause;
- (g) Not more than two-thirds of the members of the Elections Tribunal shall be of the same gender;
- (h) The individuals to be appointed to the Elections Tribunal must meet the following minimum requirements –
 - v. They must satisfy the requirements of Chapter Six of the Constitution of Kenya 2010;
 - vi. They shall not be current members of the Council;
 - vii. They must be in good standing with the Institute; and,
 - viii. They must not be seeking election as office bearers of the Institute.
- (i) The Elections Tribunal shall in the performance of its functions regulate its own procedures and the conduct of proceedings before it.
- (j) The Elections Tribunal shall be assisted by staff drawn from the IQSK Secretariat.
- (k) The IQSK Council shall have the powers to replace a member of the Tribunal who may not be in a position to carry out their duty.

27. Hearing and determination of Election Disputes

- (a) For the purposes of hearing and determination of any election dispute by the Tribunal the secretary or support staff to the Tribunal may, under direction of the Tribunal, administer oaths.
- (b) The Chairperson may by notice under his or her hand, summon any person or persons to attend and give evidence and to produce any relevant book or document.
- (c) The sessions of the Tribunal shall, unless the special circumstances of a petition require, be in Nairobi, convened by the chairman as occasion requires.
- (d) The record of the proceedings and of every decision of the Tribunal shall be authenticated by the signature of the chairman.
- (e) Decisions reached by the tribunal shall be binding to all members of the Institute.

28. Powers of the IQSK Elections Tribunal

- (a) The Elections Tribunal may, in the exercise of its jurisdiction –
 - i. Summon and swear in witnesses in the same manner or, as nearly as circumstances admit, as in a trial by a court in the exercise of its civil jurisdiction and impose the same penalties for the giving of false evidence;(how will this be effected?)
 - ii. Issue summons for attendance of any person as a witness who appears to the Tribunal to have been concerned in the election or in the circumstances of the vacancy or alleged vacancy;
 - iii. Examine a witness who is summoned to attend or any other person who has not been called as a witness to the Tribunal;
 - iv. Allow examinations by a party to the petition and after examination the witness may be cross-examined by or on behalf of the petitioner and respondent or either of them; and,
 - v. Decide all matters that come before it without undue regard to technicalities.
- (b) The Elections Tribunal may, by order, direct the Commission to issue a certificate of election to an aspiring candidate –
 - i. Upon recount of the ballots cast, that the aspiring candidate won the election; and,
 - ii. That winner is found not to have committed an election offence.

29. Presentation and Service of Petitions

- (a) A petition concerning an election shall be filed within fourteen days after the declaration of the election results by the Commission.
- (b) A petition questioning an election upon the ground of a corrupt practice, and specifically alleging a payment of money or other act to have been made or done since the date aforesaid by the person whose election is questioned or with the knowledge of that person may, so far as respects the corrupt practice, be filed at any time within fourteen days after the publication of the election results.
- (c) A petition may be served personally upon a respondent, or through the Elections Tribunal.

30. Prohibition of Disclosure of Vote

- (a) A voter who has voted at an election shall not, in the proceedings of an election petition, be required to state whom they voted for.

31. Scrutiny of Votes

- (a) The Elections Tribunal may, on its own motion or on application by any party to the petition, during the hearing of an election petition, order for a scrutiny of votes to be carried out in such a manner as the tribunal may determine.
- (b) Where the votes at the trial of an election petition are scrutinized, only the following votes shall be struck off –(How will the votes be identified? In Secret ballot no names or identification marks are allowed!)
 - i. The vote of a person whose name was not on the Voters’ Register published by the Commission;
 - ii. The vote of a person whose vote was procured by bribery, cheating or undue influence;
 - iii. The vote of a person who committed or procured the commission of impersonation at the election;
 - iv. The vote of a person proved to have voted twice;
 - v. The vote of a person, who by reason of conviction for an election offence or by reason of the report of the Elections Tribunal, was disqualified from voting at the election; and,
 - vi. The vote cast for a disqualified aspiring candidate by a voter knowing that the aspiring candidate was disqualified or the facts causing the disqualification, or after sufficient public notice of the disqualification or when the facts causing it were notorious.

32. Non-compliance with the Law

- (a) No election shall be declared to be void by reason of non-compliance with any written law relating to that election if it appears that the election was conducted in accordance with the general principles laid down in Section 3 of these By-Laws, or that the non-compliance did not affect the result of the election.

33. Determination of Election Petition

- (a) Upon receipt of a petition, the Elections Tribunal shall peruse the petition and –
 - i. If it considers that no sufficient ground for granting the relief claimed is disclosed therein may reject the petition summarily; or,
 - ii. Fix a date for the trial of the petition.

(b) Subject to Section 27 of these By-Laws, an election petition shall be heard and determined within seven days.